

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-1763-SLG-E TCEQ ID: RN102911708 CASE NO.: 34878**  
**RESPONDENT NAME: Jerry L. McClung dba J L Backhoe Service**

Page 1 of 2

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> J L Backhoe Service, 5801 Duck Hollow Lane, Unit 109, Temple, Bell County</p> <p><b>TYPE OF OPERATION:</b> Septic tank waste transporter operation</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There were five complaints between September and October 2007. Complainants alleged that dumping of sludge was occurring on property located at 5801 Duck Hollow Lane, Unit 109 in Temple. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> Complaints were received but the complainant has not expressed a desire protest this action or to speak at agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period ended on January 21, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890;  Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Jerry L. McClung, Owner, J L Backhoe Service, P.O. Box 171, Belton, Texas 76513  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> September and October 2007</p> <p><b>Date of Investigation Relating to this Case:</b> September 26, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> October 19, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WATER</b></p> <p>Failure to deposit wastes at an authorized facility. Specifically, the Respondent discharged four vacuum truck loads of treated effluent wastewater at a site which did not have the proper authorization to receive it [30 TEX. ADMIN. CODE § 312.143].</p>	<p><b>Total Assessed:</b> \$650</p> <p><b>Total Deferred:</b> \$130  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$520</p> <p><b>Site Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent cleaned the Site and disposed the unauthorized waste at an authorized facility by September 27, 2007.</p>

Additional ID No(s): Sludge Registration No. 22628



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

TCEQ

DATES	Assigned	22-Oct-2007	Screening	30-Oct-2007	EPA Due	
	PCW	31-Oct-2007				

## RESPONDENT/FACILITY INFORMATION

Respondent	Jerry L. McClung dba J L Backhoe Service		
Reg. Ent. Ref. No.	RN102911708		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

## CASE INFORMATION

Enf./Case ID No.	34878	No. of Violations	1
Docket No.	2007-1763-SLG-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Jorge Ibarra, P.E.
Multi-Media		EC's Team	EnforcementTeam 3
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

## Penalty Calculation Section

### TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History  Enhancement Subtotals 2, 3, & 7 Notes Culpability   EnhancementSubtotal 4 Notes Good Faith Effort to Comply  ReductionSubtotal 5 

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes 

Total EB Amounts	\$0	0% Enhancement*
Approx. Cost of Compliance	\$1,000	*Capped at the Total EB \$ Amount

Subtotal 6 

### SUM OF SUBTOTALS 1-7

Final Subtotal 

### OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment 

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Final Penalty Amount 

### STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty 

### DEFERRAL

Reduction

Adjustment 

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes 

### PAYABLE PENALTY

Screening Date 30-Oct-2007

Docket No. 2007-1763-SLG-E

PCW

Respondent Jerry L. McClung dba J L Backhoe Service

Policy Revision 2 (September 2002)

Case ID No. 34878

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN102911708

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

The penalty was reduced due to High Performer classification.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) -10%

<b>Screening Date</b> 30-Oct-2007 <b>Respondent</b> Jerry L. McClung dba J L Backhoe Service <b>Case ID No.</b> 34878 <b>Reg. Ent. Reference No.</b> RN102911708 <b>Media [Statute]</b> Water Quality <b>Enf. Coordinator</b> Jorge Ibarra, P.E. <b>Violation Number</b> <input type="text" value="1"/>	<b>Docket No.</b> 2007-1763-SLG-E <b>PCW</b> <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision September 19, 2007</i>																
<b>Rule Cite(s)</b> <input type="text" value="30 Tex. Admin. Code § 312.143"/>																	
<b>Violation Description</b> <input type="text" value="Failed to deposit wastes at an authorized facility. Specifically, the Respondent discharged four vacuum truck loads of treated effluent wastewater to a site which did not have the proper authorization to receive it."/>																	
<b>Base Penalty</b> <input type="text" value="\$10,000"/>																	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																	
<b>OR</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;"><b>Harm</b></td> </tr> <tr> <td style="text-align: center;"><b>Release</b></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: center;">x</td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>		<b>Harm</b>			<b>Release</b>	Major	Moderate	Minor	Actual	<input type="text"/>	<input type="text"/>	x	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
	<b>Harm</b>																
<b>Release</b>	Major	Moderate	Minor														
Actual	<input type="text"/>	<input type="text"/>	x														
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>														
<b>Percent</b> <input type="text" value="10%"/>																	
<b>&gt;&gt; Programmatic Matrix</b>																	
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Falsification</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>		Major	Moderate	Minor	Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>								
	Major	Moderate	Minor														
Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>														
<b>Percent</b> <input type="text" value="0%"/>																	
<b>Matrix Notes</b>	<input type="text" value="Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation."/>																
<b>Adjustment</b> <input type="text" value="\$9,000"/>																	
<input type="text" value="\$1,000"/>																	
<b>Violation Events</b>																	
<table style="width: 100%;"> <tr> <td style="width: 40%;"> <b>Number of Violation Events</b> <input type="text" value="1"/> </td> <td style="width: 20%; text-align: center;"> <input type="text" value="1"/> </td> <td style="width: 40%;"> <b>Number of violation days</b> </td> </tr> </table>		<b>Number of Violation Events</b> <input type="text" value="1"/>	<input type="text" value="1"/>	<b>Number of violation days</b>													
<b>Number of Violation Events</b> <input type="text" value="1"/>	<input type="text" value="1"/>	<b>Number of violation days</b>															
<b>mark only one with an x</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">daily</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">monthly</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">quarterly</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">semiannual</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">annual</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">single event</td> <td style="text-align: center;">x</td> </tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	x				
daily	<input type="text"/>																
monthly	<input type="text"/>																
quarterly	<input type="text"/>																
semiannual	<input type="text"/>																
annual	<input type="text"/>																
single event	x																
<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>																	
<input type="text" value="One single event is recommended."/>																	
<b>Economic Benefit (EB) for this violation</b>																	
<b>Statutory Limit Test</b>																	
<b>Estimated EB Amount</b> <input type="text" value="\$0"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$650"/>																
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$650"/>																	

**Economic Benefit Worksheet****Respondent** Jerry L. McClung dba J L Backhoe Service**Case ID No.** 34878**Reg. Ent. Reference No.** RN102911708**Media** Water Quality**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,000	26-Sep-2007	27-Sep-2007	0.0	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to properly dispose wastes at an authorized facility. Date Required is the investigation date, Final Date is the compliance date.

<b>Avoided Costs</b>							
<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs****Approx. Cost of Compliance**

\$1,000

**TOTAL**

\$0

# Compliance History

Customer/Respondent/Owner-Operator: CN601477334 MCCLUNG, JERRY L Classification: HIGH Rating: 0.00  
 Regulated Entity: RN102911708 J L BACKHOE SERVICE Classification: HIGH Site Rating: 0.00  
 ID Number(s): SLUDGE REGISTRATION 22628  
 Location: 5801 DUCK HOLLOW LN UNIT 109, TEMPLE, TX, 76502 Rating Date: September 01 07 Repeat Violator: NO  
 TCEQ Region: REGION 09 - WACO  
 Date Compliance History Prepared: October 22, 2007  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: October 22, 2002 to October 22, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No.
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 01/29/2003 (21907)

2 09/26/2007 (596166)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

- J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
JERRY L. MCCLUNG DBA J L  
BACKHOE SERVICE  
RN102911708**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY  
§**

## **AGREED ORDER DOCKET NO. 2007-1763-SLG-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Jerry L. McClung dba J L Backhoe Service ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a septic tank waste transporter operation at 5801 Duck Hollow Lane, Unit 109 in Temple, Bell County, Texas (the "Site").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 24, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Six Hundred Fifty Dollars (\$650) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent



has paid Five Hundred Twenty Dollars (\$520) of the administrative penalty and One Hundred Thirty Dollars (\$130) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent cleaned the Site and disposed the unauthorized waste at an authorized facility by September 27, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Site, the Respondent is alleged to have failed to deposit wastes at an authorized facility, in violation of 30 TEX. ADMIN. CODE § 312.143, as documented during an investigation conducted on September 26, 2007. Specifically, the Respondent discharged four vacuum truck loads of treated effluent wastewater at a site which did not have the proper authorization to receive it.

## **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").



#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Jerry L. McClung dba J L Backhoe Service, Docket No. 2007-1763-SLG-E" to:  
  
Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission.

John Siddle  
For the Executive Director

11/21/2008  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Jerry L. McClung  
Signature

11-20-07  
Date

JERRY L. MCCLUNG  
Name (Printed or typed)  
Authorized Representative of  
Jerry L. McClung dba J L Backhoe Service

owner  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

